**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

LEKISHA NICHOLAS, Individually and on Behalf of All Others Similarly Situated, Plaintiff, v. WAYFAIR INC. and WAYFAIR LLC, Defendants.	Case No. 19-cv-1974-JBW-LB

SUPPLEMENTAL DECLARATION OF JONATHAN KLEIN

I, Jonathan Klein, declare and state as follows:

1.   I am over the age of 18 and submit this supplemental declaration in support of Defendants' Motion to Compel Arbitration and Stay Proceedings. I have personal knowledge of the facts stated in this declaration including through review of Wayfair's business records as kept in the ordinary course of business and, if called as a witness, I will truthfully testify thereto.

2.   I am the Director of Storefront Engineering at Wayfair, leading a team of approximately 400 engineers that build Wayfair's sites and apps. Through my position as Director of Storefront Engineering at Wayfair, I have knowledge of the facts stated in this Supplemental Declaration.

3.   On June 24, 2019, I submitted an initial declaration in support of Wayfair's Motion to Compel Arbitration (the "June Declaration"). I submit this Supplemental Declaration to provide additional information about the records on which I relied when preparing the June Declaration.

4.   As explained in my June Declaration, Wayfair maintains records on customer browsing activity on its sites in the ordinary course of business. These records include documents

known as "clickstream" reports, which reflect customers' browsing activity. A clickstream report for a particular website user indicates the webpages a customer visits, the buttons and links the customer selects or "clicks on," orders the customer places, and the dates and times of the browsing activities, among other things.

5.   Attached as Exhibit A to this Supplemental Declaration is the clickstream report for Ms. Nicholas. Exhibit A sets forth Ms. Nicholas's browsing activity on Wayfair's websites. As discussed in my June Declaration and detailed further below, these records of Ms. Nicholas's browsing activity indicate that before selecting the "Submit Order" button to purchase her headboard on May 15, 2016, Ms. Nicholas selected the "terms and conditions" hyperlink and visited Wayfair's Terms of Use page. Ms. Nicholas then cancelled her initial order and re-ordered the same headboard in a different color later that day.

6.   Clickstream reports such as Exhibit A are prepared in the ordinary course of Wayfair's business. Additional detail about Ms. Nicholas's clickstream report is set forth below.

7.   The first two columns of the clickstream report, "SessionStartDate" and "Event_Timestamp," show the specific date and time of each of Ms. Nicholas's activities on the Wayfair website. (Ex. A, Columns A and B). The third column shows the customer identification number unique to each Wayfair customer. Given that Ex. A is a printout of all of Ms. Nicholas' activity, her customer identification number (3953293551) appears in each row. (Ex. A, Column C ("CuID")). The column titled "ClickLocation" shows each button or hyperlink that the customer, Ms. Nicholas, clicked on while on the website (Ex. A, Column G), and the "Event_Url" column identifies the specific website that she accessed (Ex. A, Column H). The "DeviceType" column shows what kind of device (such as a phone or computer) the customer was using while interacting with the Wayfair website. (Ex. A, Column AQ).

8.   Wayfair's records of Ms. Nicholas's browsing activity, as demonstrated in the clickstream report, show that she visited wayfair.com twice—once on February 18, 2016 and a second time on April 24, 2016—before purchasing the headboard at issue in her complaint. (Ex. A, Rows 2, 3). On May 15, she visited 197 additional, distinct webpages on Wayfair.com. (Ex. A, Rows 4-318).

9.   Ms. Nicholas's clickstream report shows that Ms. Nicholas added a headboard to her shopping cart at 5:21 p.m. on May 15, 2016. (Ex. A, Row 10). Ms. Nicholas then navigated to the checkout screen at 5:24 p.m. (Ex. A, Row 21).

10.   At 5:27 p.m. on May 15, 2016, before making any purchase from Wayfair, Ms. Nicholas clicked on the "Terms and Conditions" link next to the "Submit Order" button on the checkout screen. (Ex. A, Row 28 ("CLICK_TERMS_AND_CONDITIONS")). That row has been bolded and highlighted in Exhibit A for ease of reference.

11.   Two minutes after navigating to the Terms and Conditions page, at 5:29 p.m., Ms. Nicholas took her next action on the website and placed her order by selecting the "Submit Order" button at the bottom of her screen. (Ex. A, Row 29).

12.   The clickstream report indicates that Ms. Nicholas then cancelled her initial order at 5:34 p.m. that same day (Ex. A, Rows 135-36) and returned to the website to place an order for the same headboard in a different color later that evening (Ex. A, Rows 161-73).

13.   The clickstream report shows that Ms. Nicholas continued to browse various Wayfair websites after placing her order on May 15, 2016 and after she made her complaint regarding bed bugs on September 5, 2016. In total, she visited Wayfair's website on 2,945 occasions on 55 separate days, most recently on December 16, 2018. (Ex. A, Rows 2-2946)

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed on this 3rd day of September, 2019, at Boston, Massachusetts.

Jonathan Klein, Director of Storefront Engineering

Exhibit A

[FILED UNDER SEAL]